

HOUSE No. 1997

The Commonwealth of Massachusetts

PRESENTED BY:

Vincent A. Pedone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to dogs.

PETITION OF:

NAME:

Vincent A. Pedone

DISTRICT/ADDRESS:

15th Worcester

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1948 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ANIMALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 136A of chapter 140 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting, after the definition “Adoption”, the following 4
3 definitions:-

4 “Assistance and service dogs”, any canine specifically trained to help people who have
5 disabilities or any canine trained to help a person with a disability in life. The term shall also include
6 canines trained for search and rescue and medical response dogs.

7 “Breed”, any dog displaying the majority of physical traits of a specific group or any dog
8 exhibiting those distinguishing characteristics which substantially conform to the standards established by
9 the American Kennel Club or United Kennel Club when defining breed of dog.

10 “Competition dog”, a pedigreed dog not used for breeding that is a breed recognized by and
11 registered with an approved dog breed registry, such as the American Kennel Club, United Kennel Club,
12 the American Dog Breeders Association, or any other dog breed registry approved by the city or town;
13 and shows or competes in a confirmation, obedience, agility, carting, herding, protection, rally, sporting,
14 working or other event sponsored by an approved dog breed registry.

15 “Currently vaccinated”, vaccinated against rabies by a licensed veterinarian, with rabies vaccine
16 licensed by the U.S. Department of Agriculture; and:

(A) not more than 12 months have elapsed since the animal's most recent vaccination with the one-year rabies vaccine or was the animal's initial vaccination; or

(B) not more than 36 months have elapsed since the animal's most recent vaccination date, if the most recent vaccination with a three-year rabies vaccine and the dog has received at least 2 vaccinations.

SECTION 2. Said section 136A of said chapter 140, as so appearing, is hereby further amended by inserting, after the definition "Commissioner", the following 3 definitions:-

"Dangerous dog", any dog regardless of breed, breeding, type or appearance, which when unprovoked, has attacked, bitten, inflicted serious injury upon, or killed a human being or other domestic animal.

"Farm dog", any canine that works on a farm to assist humans or other animals.

"Health Certificate" - a letter by a certified veterinarian stating that the dog named in the application for breeding has been immunized or vaccinated for the distemper virus, hepatitis, parvo virus, parainfluenza virus, leptospira bacteria, and rabies.

SECTION 3. Said section 136A of said chapter 140, as so appearing, is hereby further amended by inserting, after the definition "Live stock or fowls", the following 3 definitions:-

"Nuisance", any animal that runs at large without being controlled by a leash, barks for sustained periods of time so as to disturb the peace and quiet of a neighborhood or area, or digs, scratches or defecates on any property other than its owner's.

"Owner", any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.

SECTION 4. Said section 136A of said chapter 140, as so appearing, is hereby further amended by inserting, after the definition "Shelter", the following definition:-

"Tether", to fasten or restrain a dog or cause a dog to be fastened, chained, tied, or restrained to a stationary object. This shall not include competition dogs, and dogs engaged in the training and practice of sled racing.

SECTION 5. Said chapter 140 is hereby further amended by striking out section 157, and inserting in place thereof the following sections:-

45 .Section 157. Any person may make a complaint to the officer in charge of the animals or to the
46 person who is responsible for handling dog complaints in a city or town that a dog, owned or harbored
47 within its jurisdiction, is a nuisance for any of the following reasons, including but not limited to:-

48 (a) allowing a dog to run at large without being controlled by a leash;

49 (b) allowing a dog to bark for sustained periods of time of more than one-half hour, or during the
50 evening or night hours so as to disturb the peace and quiet of a neighborhood or area; or

51 (c) allowing a dog to dig, scratch or defecate on any property belonging to someone other than the
52 owner.

53 If an animal is deemed a nuisance after an investigation by the person charged with handling
54 animal complaints, that person can make a recommendation for or can give a warning, order a fine,
55 confinement, neutering, banishment or the destruction of the dog as may be deemed necessary. Within 10
56 days after the issuance of said order, the owner or keeper of such dog may bring a petition in the district
57 court within the judicial district in which the dog is owned and kept, addressed to the justice of the court,
58 that the order may be reviewed by the court, or magistrate thereof, and after such notice to the officer or
59 officers involved as the magistrate deems necessary, the magistrate shall review with such action, hear the
60 witnesses and affirm such order unless it shall appear that it was made without reasonable cause or in bad
61 faith, in which case such order shall be reversed. Any party shall have the right to request a de novo
62 hearing on the petition before a justice of the court. The decision of the court shall be final and conclusive
63 upon the parties. Any person owning or harboring such a dog who fails to comply with any order of the
64 selectmen or officer in charge of the animal complaints, as the case may be, shall be punished by a fine of
65 not more than \$25 for the first offence and not more than \$100 for the second or subsequent offense, or
66 by imprisonment in a jail or house of correction for not more than 30 days for the first offense and not
67 more than 60 days for second or subsequent offense or both such fine and imprisonment.

68 Magistrates shall exercise their authority hereunder subject to the limitations of section 62C of
69 chapter 221.

70 157A. Dangerous Dogs.

71 A dog, regardless of breed, breeding, or type of appearance, shall be declared dangerous after an
72 unprovoked attack in which it has attacked, bitten, inflicted serious injury upon, or killed a human being
73 or other domestic animal. After a city or town has deemed a dog dangerous, the owner or keeper must be
74 notified that the dog may be an immediate threat to the public.

75 The officer in charge of animals or the person charged with the responsibility of handling dog
76 complaints shall have the authority of determining that a dog is dangerous. Once a dog is determined to
77 be an immediate threat, the officer in charge of the animal or the person charged with handling dog
78 complaints shall have the authority to remove the dog from the owner or keeper, or give a warning, order
79 a fine, confinement, neutering, banishment or the destruction of the dog. The owner of the dog can appeal
80 any decision of warning, fine, confinement, banishment, neutering or destruction.

81 The officer in charge of animals or the person charged with the responsibility of handling dog
82 complaints has the authority, if they believe that a dog is dangerous, an immediate threat or that the
83 animal is in danger to seize or impound the animal.

84 If an owner does not follow the order, a fine of \$50 per day, made payable to the municipality,
85 not to exceed \$1,000, may be assessed by the city or town for each day the owner is in violation of the
86 order. The animal control officer in each city or town shall make available such notices of judgments
87 upon request. Records of such notices shall be maintained for a period of not less than 5 years.

88 Following the order of destruction of a dog by a municipality, the officer in charge of animals
89 shall immediately take custody of the dog from the owner or keeper. If the owner or keeper appeals the
90 order of destruction, the organization or entity charged with the responsibility of handling dog complaints
91 and impoundment shall continue to supervise the dog's care until the owner or keeper exhausts all appeals
92 or discontinues the appeals process.

93 If a court affirms the order of destruction, the owner or keeper shall reimburse the city or town
94 for all costs incurred for the housing and care of the dog during its impoundment and throughout the
95 appeals process. Any unpaid costs shall be recovered by the municipality in which the aforementioned
96 owner or keeper resides by one of the following methods:

97 (a) a lien is placed on any property owned by the aforementioned owner or keeper;

98 (b) an additional itemized cost may appear on the owner's or keeper's vehicle excise tax bill; or

99 (c) an itemized bill for reimbursement is mailed to the owner or keeper.

100 Funds recovered by the municipality shall be transferred to the organization or entity
101 charged with the responsibility of handling dog complaints and impoundment to cover the costs
102 associated with the care of the animal. If the organization or entity falls under the management or
103 direction of the municipality, any costs recovered will be distributed at the discretion of the municipality.

104 If the court overturns the order of destruction, the city or town shall pay all costs associated
105 with the care of the dog for housing and care during its impoundment and throughout the appeals process.

106 No dog shall be declared dangerous if any injury or damage is sustained by a person who, at
107 the time of the injury or damage, was committing a willful trespass or other tort upon the premises
108 occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or
109 was committing or attempting to commit a crime. No dog may be declared dangerous if the dog was
110 protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or
111 assault. A dog cannot be declared dangerous if an injury or damage was sustained by a domestic animal,
112 which at the time of the injury or damage, was teasing, tormenting, abusing, or assaulting the dog.

113 No dog may be declared dangerous if the injury or damage to a domestic animal was sustained while
114 the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under
115 the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal
116 appropriate to the work of the dog.

117 SECTION 6. Chapter 140 is hereby amended by striking out section 174B and inserting in place
118 thereof the following:-

119 Section 174B. Whoever is the owner or keeper of a dog must restrain said dog by leash in
120 public places at all times except for assistance and service dogs, dogs engaged in legal hunting or sport,
121 farm dogs, or designated dog recreational areas. Whoever violates the provisions in this section shall be
122 punished pursuant to section 157 of chapter 140.

123 SECTION 7. Said chapter 140 is hereby further amended by inserting, after section 174D, the
124 following sections:-

125 Section 174 E. (a) the owner or keeper commits an offense if an unaltered dog is without
126 a valid intact animal permit.

127 (b) An intact permit may only be issued for a dog;

128 (1) dog must have its health certificate and current vaccinations

129 (2) is currently in compliance with the license requirement

130 (c) To obtain an intact animal permit, an owner or keeper must submit an application to
131 the city or town on a form provided by the city or town. The city or town shall promulgate rules,
132 regulations and fee associated with an intact permit.

Section 174F. Every person shall have their dog licensed with the city or town in which they reside, 6 months after the date of purchase and said license shall be renewed yearly on or before the original licensing day.

Section 174G. No person shall tether, fasten, chain, tie or restrain a dog, or cause a dog to be tethered, fastened, chained, tied, or restrained, to a doghouse, tree, fence, or any other stationary object for more than 3 hours within a 24 hour period.

A person may:

(a). attach a dog to a running line, pulley, or trolley system, but not by means of a choke collar or a pinch collar; or

(b). tether, fasten, chain, tie, or otherwise restrain a dog pursuant to the requirements of camping and recreational areas.

Any person who violates the provisions of sections 174E, 174F and 174G shall be punished by a fine of no less than \$250 not more than \$1,000 per dog.

Section 174H. (a) Nothing in this chapter shall prohibit a city or town or district from banning or further regulating a particular breed of dog.

(b) Any city or town may further regulate or ban a particular breed of dog with a majority vote of the governing body.

(c) Upon the vote of a city or town to regulate or ban a particular breed of dog, said city or town shall establish a board consisting of 3 members to identify and determine the breed of dogs in said city or town, subject to the governing regulation. The 3 board members shall consist of: 2 members of the public that are appointed by the city manager or mayor, one of which must be considered an expert in field of animals; and the animal control officer or a designee.

(d) If a particular breed of dog is further regulated or banned, the regulation or ban shall not take effect until 180 days after the vote by the city or town.